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Mary Beth Deemer to: Matthew Hicks

04/05/2010 03:11 PM

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Dear Mr. Hicks:

Please see the attached correspondence.

Regards,

Mary Beth Deemer

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"Deemer, Mary Beth "  
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To

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Subject

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# JONES DAY

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JP531642/

April 5, 2010

## VIA UPS and E-mail

[hicks.matthew@epamail.epa.gov](mailto:hicks.matthew@epamail.epa.gov)

Matthew Hicks  
EPA Region 4  
OEA 13th Floor  
61 Forsyth Street SW  
Atlanta, Georgia 30303

Re: Request for Information Pursuant to Section 104 of CERCLA and  
Section 3007 of RCRA for the Ward Transformer Superfund Site in  
Raleigh, Wake County, North Carolina

Dear Mr. Hicks:

This letter is PCS Phosphate Company, Inc.'s ("PCS")<sup>1</sup> partial response to the United States Environmental Protection Agency's ("EPA") request for information ("Information Request") pursuant to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604, and Section 3007 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927, regarding the Ward Transformer Superfund Site, Wake County, North Carolina ("the Site"). PCS was granted an extension until May 5, 2010 to provide a complete response to the Information Request.

## PRELIMINARY STATEMENT

At the outset, PCS objects to the Information Request to the extent that it presupposes the legal conclusion that all transactions with Ward Transformer, Inc., Ward Transformer Company, Inc., and/or Ward Transformer Sales & Service, Inc. (collectively, "Ward") result in liability under CERCLA and/or RCRA. Nowhere has PCS admitted that all or any of its transactions with Ward create such liability, nor has liability been established by court order, jury verdict, or other legal proceeding.

While PCS undertook a diligent search for the requested information, it should be noted that PCS generally objects to the Information Request on the grounds that it is overly broad, unduly burdensome, and requests information not relevant to EPA's determination of the need for response at the Site.

PCS further objects to what it believes are vague and inaccurate references to 18 U.S.C. § 1001 and Section 3008(d) of RCRA, 42 U.S.C. § 6928(d), and the possible penalties

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<sup>1</sup> PCS's response is on behalf of its plant located in Aurora, North Carolina.

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thereunder. Any information provided by PCS is based upon a reasonable investigation and search of records kept in the ordinary course of business, and PCS's responses are based on that reasonable investigation.

### NARRATIVE RESPONSE

It is PCS's understanding that Ward operated a manufacturing, repair, sales, and reconditioning facility for transformers and other electrical equipment at the Site from approximately 1964 to 2005. PCS and its predecessor, Texasgulf Inc., engaged in business with Ward through PCS's plant in Aurora, North Carolina. The nature of PCS's transactions with Ward included purchasing or renting transformers from Ward, hiring Ward to send employees to PCS's Aurora plant to repair transformers in Aurora, and sending transformers to Ward to be inspected and/or repaired.<sup>2</sup> PCS is currently preparing a spreadsheet detailing its transactions with Ward, which PCS will provide with its complete response to the Information Request. Additional information regarding the transactions is contained in Ward's records, which are currently in EPA's possession. The Ward records, bearing Bates prefixes "WT" and "A," include purchase orders, inventory cards, and oil test reports. Finally, PCS will enclose the available purchase orders it generated for transactions with Ward when PCS submits its complete response to the Information Request. PCS's purchase orders vary by type of transaction. For example, purchase orders for repairs made at PCS's Aurora plant often specifically state where the repair was to take place, and additionally show that a security fax with the names of the Ward employees that would be coming to PCS's plant was required. Furthermore, these purchase orders attach terms and conditions governing the Ward employees' work while at PCS's plant.

Of the transformers PCS did send to Ward for repair, the vast majority contained < 50 parts per million ("ppm") of polychlorinated biphenyls ("PCBs"). In fact, many of PCS's transformers had PCB concentrations of < 1 ppm. The low PCB content in PCS's transformers was the result of PCS's efforts, primarily during 1987 and 1988, to convert its transformers to non-PCB transformers.<sup>3</sup> As part of its PCB program, PCS engaged Sunohio (also known as Sun Environmental and subsequently ENSR) to reclassify its transformers. In addition, PCS had a policy in place addressing the storage and disposal of PCB or PCB-contaminated oil and electrical equipment, ensuring that PCB or PCB-contaminated waste was properly manifested and disposed of at certified facilities. PCS did not send transformers to Ward for purposes of reclassification or for disposal of PCB or PCB-contaminated transformers or oil. In fact, on more than one occasion, PCS engaged certified transportation and disposal companies to remove PCB or PCB-contaminated oil or transformers from the Site for proper disposal, or Ward returned such materials to PCS for proper disposal.

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<sup>2</sup> Approximately one third of PCS's transactions with Ward did not involve PCS sending anything to the Site. Instead, these transactions involved the purchase or rental of transformers from Ward, or the repair of transformers at PCS's Aurora plant by Ward employees.

<sup>3</sup> The majority of PCS's transactions with Ward occurred after 1988, and thus after this conversion process.

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As you are aware, in 2004, EPA identified entities it considered to be potentially responsible parties under CERCLA for environmental conditions at the Site. EPA did not identify PCS. On or about September 16, 2005, EPA entered into an Administrative Settlement Agreement and Order on Consent for Removal Action with Ward, Reward Properties, L.L.C., Reward Statesville, L.L.C., Bassett Furniture Industries, Inc., Carolina Power and Light Co. d/b/a Progress Energy Carolinas, Inc. ("PEC"), Bishop Coal Company, n/k/a Consolidation Coal Company, Consolidation Coal Company ("Consol"), and Itmann Coal Company, n/k/a Consolidation Coal Company. Thereafter, Consol and PEC contacted over 200 entities, including PCS, and demanded that they fund or participate in the removal action work. Only PCS agreed. To date, voluntarily and without admitting liability, PCS has contributed almost \$16 million toward this work.

Consol and PEC have filed CERCLA cost recovery and contribution actions in the Eastern District of North Carolina, naming PCS and others as defendants. PCS, in turn, has filed counterclaims and crossclaims to recover the amount it has paid in excess of its proportionate share of liability, if any, for cleanup at the Site.

### RESPONSES TO QUESTIONS

1. Identify the person(s) answering these Questions on behalf of Respondent.

**ANSWER:**

The undersigned legal counsel is answering these Questions on behalf of PCS.

2. For each and every Question, identify all persons consulted in the preparation of the answer.

**ANSWER:**

Apart from legal counsel, answers to these Questions are based on information obtained from the following individuals:

- David Fritzler: Mr. Fritzler is a former employee of PCS, who worked at PCS's Aurora, North Carolina plant starting in 1980. Mr. Fritzler dealt with transformer maintenance, and organized the shipment of transformers to Ward for repair. Mr. Fritzler also scheduled transformer repair work performed by Ward at PCS's Aurora plant.
- George Lillis: Mr. Lillis worked at PCS's Aurora, North Carolina plant starting in 1973 and is currently retired. Mr. Lillis was the General Foreman of Instrument and Electrical Maintenance. Mr. Lillis was involved in PCS's

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transformer reclassification process and PCS's PCB testing of transformers, including sending PCB data to Ward when sending transformers for repair.

- Karl Simons: Mr. Simons began working at PCS's Aurora, North Carolina plant in 1985 and retired in 2008. He was superintendent of electrical operations at the plant, and provided information regarding PCS's transactions with Ward.
  - Frank Alcock: Mr. Alcock worked in the Purchasing Department at PCS's Aurora, North Carolina plant and is now retired. Mr. Alcock provided information about PCS's purchasing practices and purchasing records for transactions between PCS and Ward.
  - Ronnie Pate: Mr. Pate was formerly a transformer technician, and is currently a maintenance planner in the Instrument and Electrical Department at PCS's Aurora, North Carolina plant. Mr. Pate provided information regarding Ward's performance of transformer repair work, both at the Site and at PCS's Aurora plant.
3. For each and every Question, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question and provide true and accurate copies of all such documents.

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that Ward records bearing the Bates prefixes "WT" and "A" that contain information regarding PCS's transactions with Ward are already in EPA's possession.<sup>4</sup> PCS can also make the relevant Ward records available upon request. In addition, when PCS submits its complete response to this Information Request, PCS will enclose its available relevant records from the applicable time period gathered from its Aurora plant.

4. Describe in detail any agreement and/or contract that your company has had with Ward Transformer, Inc.; Ward Transformer Company, Inc.; Ward Transformer Sales & Service, Inc.; Robert Ward, II; Robert Ward, III; and/or any other company or individual operating on the Ward Transformer Site property.

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<sup>4</sup> The Ward records will be referenced by Bates number on a transaction-by-transaction basis in the spreadsheet PCS will enclose with its complete response to this Information Request.

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**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date reveals that it engaged in business with Ward through purchase orders on a transaction-by-transaction basis. PCS will enclose the available purchase orders it generated for transactions with Ward when PCS submits its complete response to this Information Request.

5. Provide all business records pertaining to your company and the parties operating at the Site listed above, including:
  - a. Copies of any and all contracts and/or agreements describing the relationship between your company and the parties operating at the Site;
  - b. Copies of correspondence to and from these companies, including letters, memoranda (both internal and external);
  - c. Copies of invoices, receipts, manifests, bills-of-lading, purchase orders, order sheets, inventory cards, tickets, and any other documents pertaining to shipping, receiving, and transporting items to and from the Site; and
  - d. Copies of all business records pertaining to sale, transfer, delivery (e.g., for repair, consignment, or joint-venture), or disposal of any hazardous substances, materials, items (whether useful or not), scrap items, and/or recyclable items to the Site, including but not limited to, transformers.

If you are unable to provide any or all of these documents, explain why, and what you did to find them.

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, PCS incorporates by reference its Narrative Response and Answer to Question Nos. 3 and 4 as if set forth in full.

6. Identify all transactions or agreements in which your company gave, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), disposed of, or arranged for the treatment or disposal of (1) any electrical transformers, ballasts, capacitors, switch gears, or electrical components to the Site or (2) any items containing or contaminated with polychlorinated biphenyls ("PCBs") to the Site.

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- a. State the dates on which each such person may have given, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), disposed of, or arranged for the treatment or disposal of such material or item and if/when such material or item was taken out of service.
- b. Describe the materials or items that may have been given, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), treated, or disposed of including type of material or item, chemical content, concentration, physical state, quantity by volume and weight, and other characteristics.
- c. Describe the nature, including the chemical content, concentration, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all hazardous substances involved in each such arrangement.
- d. Identify the name of the manufacturer, manufacture date, and serial number of all electrical transformers, ballasts, capacitors, switch gears, or electrical components given, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), treated, or disposed of at the Site.
- e. Describe the purpose of each sale, transfer, or delivery of materials or items to the Site (e.g. sale, service, repair, consignment, joint-venture, disposal of material or item).
- f. Describe what was done to the materials or items once they were brought to the Site, including any service, repair, recycling, disposal, or other activity related to processing of electrical transformers, ballasts, capacitors, switch gears, electrical components, or materials contained therein.
- g. Identify the person(s) within your company who sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed and selected the Site as the location at which the material or items identified above were to be treated, disposed, recycled, repaired, or consigned.
- h. Describe where the persons identified in your response to subpart (g), above, planned to have the used oil and/or the PCB-contaminated parts involved in each agreement/contract disposed of and identify all documents mentioning these arrangements for disposal.
- i. For each item or material sent to the Site, identify the names, addresses, telephone numbers, and dates of ownership of any and all prior owners.
- j. Describe all efforts (e.g., site visits) taken by your company to determine what would be done with the used oil and/or the PCB-contaminated parts from the



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items that may have been sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed after such items had been sold, transferred, delivered to, or disposed at the Site.

- k. For any electrical transformers, ballasts, capacitors, switch gears, or electrical components given, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site, indicate whether it was oil-filled when in use. Supply any and all records that may indicate the contents of the oil, in particular whether the oil may have contained PCBs. Briefly indicate what steps were taken to determine whether the oil contained PCBs at the time the equipment was sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site or taken out of service, and explain what precautions were taken to ensure that any PCBs contaminating the equipment were disposed of properly.
- l. Describe the maintenance/service history of the electrical transformers, ballasts, capacitors, switch gears, or electrical components given, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site prior to their sale, transfer, delivery (e.g., for repair, consignment, or joint-venture), or disposal at the Site.
- m. Describe the condition of the electrical transformers, ballasts, capacitors, switch gears, or electrical components given, sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site when they left your company.
- n. How much money did your company pay or receive for the sale, transfer, delivery (e.g., for repair, consignment, or joint-venture), or disposal of the electrical transformers, ballasts, capacitors, switch gears, or electrical components at the Site?
- o. How much money did your company originally pay for the electrical transformers, ballasts, capacitors, switch gears, or electrical components that are the subject of the transaction identified in subpart (n), above?

**ANSWER:**

PCS specifically objects to this Question to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Question will

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be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.

- a. PCS specifically objects to this Subpart to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Subpart will be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.
- b. PCS specifically objects to this Subpart to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Subpart will be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.
- c. PCS specifically objects to this Subpart to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Subpart will be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.
- d. PCS specifically objects to this Subpart to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Subpart will be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.
- e. Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Subpart will

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be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.

- f. PCS specifically objects to this Subpart on the grounds that it is unduly burdensome in that the Ward records and PCS purchase orders regarding the transactions speak for themselves. By way of further response, PCS states that it did not intend to dispose of oil at the Site and expected that oil would be handled in accordance with regulatory requirements.
- g. PCS specifically objects to this Subpart to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that the Instrument and Electrical Department issued requisitions to the Materials (purchasing) Department, which then issued purchase orders to engage in transactions with Ward.
- h. Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that the majority of the transformers it sent to Ward had PCB concentrations of < 50 ppm and many had concentrations of < 1 ppm. In addition, by mid-1987, PCS had a PCB policy that addressed disposal of PCB or PCB-contaminated oil and transformers to ensure they were properly manifested and disposed of at certified facilities. The majority of PCS's transactions with Ward occurred after this PCB policy was in place. To date, investigation has not revealed separate arrangements for removal of used oil and parts from the Site for all transactions, but on more than one occasion, PCS engaged certified transportation and disposal companies to remove PCB or PCB-contaminated oil or transformers from the Site for proper disposal, or Ward returned such materials to PCS for proper disposal.
- i. Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date has not revealed information responsive to this Subpart.
- j. Subject to and without waiving the objections contained in the Preliminary Statement, PCS incorporates by reference its Narrative Response and Answer to Subpart h.
- k. Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response and Answer to Subpart h, PCS further states that the majority of the transformers it sent to Ward

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had PCB concentrations of < 50 ppm and many had concentrations of < 1 ppm. The low PCB content in PCS's transformers was the result of PCS's efforts, primarily during 1987 and 1988, to convert its transformers to non-PCB transformers. As part of its PCB program, PCS engaged Sunohio (also known as Sun Environmental and subsequently ENSR) to reclassify its transformers. In addition, PCS had a policy in place addressing the storage and disposal of PCB or PCB-contaminated oil and electrical equipment, ensuring that PCB or PCB-contaminated waste was properly manifested and disposed of at certified facilities. PCS did not send transformers to Ward for purposes of reclassification or for disposal of PCB or PCB-contaminated transformers or oil. In fact, on more than one occasion, PCS engaged certified transportation and disposal companies to remove PCB or PCB-contaminated oil or transformers from the Site for proper disposal, or Ward returned such materials to PCS for proper disposal. Additional information responsive to this Subpart will be contained in the spreadsheet PCS will submit with its complete response to the Information Request.

- l. PCS specifically objects to this Subpart on the grounds that it is overly broad, unduly burdensome, and requests information not relevant to EPA's determination of the need for response at the Site. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that it tested the oil in its transformers on an annual basis and engaged in quarterly inspections of transformers with PCB concentrations of  $\geq 50$  ppm.
- m. PCS specifically objects to this Subpart on the grounds that it is unduly burdensome in that the Ward records and PCS purchase orders regarding the transactions speak for themselves.
- n. PCS specifically objects to this Subpart on the grounds that it is overly broad, unduly burdensome, and requests information not relevant to EPA's determination of the need for response at the Site. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, to the extent available, the information requested in this Subpart will be detailed in the spreadsheet PCS will enclose with its complete response to the Information Request and the documents referenced therein.
- o. PCS specifically objects to this Subpart on the grounds that it is overly broad, unduly burdensome, and requests information not relevant to EPA's determination of the need for response at the Site. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, PCS incorporates by reference its Narrative Response and Answer to Subpart n.

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7. Identify all individuals who currently have, or who previously had, responsibility for your company's environmental matters (e.g., responsibility for the disposal, treatment, storage, recycling, or sale of your company's wastes, scrap items and/or recyclable items). For each individual identified, indicate the dates of the individual's employment or contractual obligation (i.e., the dates indicating the length of the individual's tenure(s)), the nature of the individual's duties and responsibilities, and a description of the type of environmental information that the individual would know.

**ANSWER:**

PCS specifically objects to this Question on the grounds that it is overly broad and unduly burdensome in that it is not limited in time in a manner relevant to PCS's transactions with Ward. PCS further objects on the grounds that this Question requests information not relevant to EPA's determination of the need for response at the Site. Subject to and without waiving these specific objections and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that the Instrument and Electrical Department handles the maintenance and repair of transformers, and the Environmental Affairs Department handles treatment and disposal of waste generated by the plant. Both the Instrument and Electrical Department and the Environmental Affairs Department submit requisitions to the Materials (purchasing) Department, which then follows through with the transactions. In addition, the resale or recycling of equipment is handled by Material Recovery, a function of the Materials Department.

8. Identify what departments within your company were responsible for the management and handling of electrical transformers, ballasts, capacitors, switch gears, or electrical components.

**ANSWER:**

PCS specifically objects to this Question on the grounds that it is vague and ambiguous in that the phrase "management and handling" is not defined. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that the Instrument and Electrical Department was responsible for the maintenance and repair of transformers and other electrical equipment. When necessary, the Instrument and Electrical Department issued requisitions to the Materials (purchasing) Department, which then issued purchase orders to engage in transactions for maintenance or repair.

9. Identify what departments within your company were responsible for selling, transferring, delivering (e.g., for repair, consignment, or joint-venture), disposing of, or arranging for the treatment or disposal of any electrical transformers, ballasts, capacitors, switch gears, or electrical components to the Site or to other locations.

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**ANSWER:**

PCS specifically objects to this Question to the extent that it is duplicative of Question No. 8. PCS further objects to this Question to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving these specific objections and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that the Instrument and Electrical Department handled the maintenance and repair of transformers, and the Environmental Affairs Department handled treatment and disposal of waste generated by the plant. Both the Instrument and Electrical Department and the Environmental Affairs Department submitted requisitions to the Materials (purchasing) Department, which then followed through with the transactions. In addition, the resale or recycling of transformers or other electrical equipment was handled by Material Recovery, a function of the Materials Department.

10. Describe the efforts your company undertook with respect to the management and handling of the electrical equipment or PCB-containing/contaminated material you identified in Question 6 above. To the extent your company adhered to customary industry practices current at the time of the transaction, please describe those practices and provide documentation supporting that they were generally followed within the industry.

**ANSWER:**

PCS specifically objects to this Question on the grounds that it is vague and ambiguous in that the phrase "management and handling" is not defined. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that it engaged in a program, primarily during 1987 and 1988, to convert its transformers to non-PCB transformers. As part of its PCB program, PCS engaged Sunohio (also known as Sun Environmental and subsequently ENSR) to reclassify its transformers. In addition, PCS had a policy in place addressing the storage and disposal of PCB or PCB-contaminated oil and electrical equipment, ensuring that PCB or PCB-contaminated waste was properly manifested and disposed of at certified facilities.

11. Describe your company's policies toward the management of PCB oil. Did your company treat PCB oil as waste pursuant to regulatory requirements or company policy?

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response and Answer to Question No. 10,

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PCS further states that it engaged in a program, primarily during 1987 and 1988, to convert its transformers to non-PCB transformers. As part of its PCB program, PCS engaged Sunohio (also known as Sun Environmental and subsequently ENSR) to reclassify its transformers. In addition, PCS had a policy in place addressing the use, storage, and disposal of PCB or PCB-contaminated oil and electrical equipment, to ensure proper handling of PCB oil in compliance with regulatory requirements.

12. Describe the ultimate disposition of PCB oil leaked, spilled, or managed at your company.

**ANSWER:**

PCS specifically objects to this Question on the grounds that it is overly broad and requests information not relevant to EPA's determination of the need for response at the Site. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that it had a policy in place addressing leaks and spills of PCB oil to ensure they were handled in compliance with regulatory requirements. In addition, the policy addressed disposal of PCB oil and PCB-contaminated materials to ensure such materials were properly manifested and disposed of at certified facilities.

13. Describe the ultimate disposition of your company's electrical transformers, ballasts, capacitors, switch gears, or electrical components that were similar to those sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site but that were not sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site.

**ANSWER:**

PCS specifically objects to this Question on the grounds that it is overly broad, unduly burdensome, and requests information not relevant to EPA's determination of need for response at the Site. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date has not revealed company records indicating repair transactions with other vendors.

14. Describe any instances in which your company sold electrical transformers, ballasts, capacitors, switch gears, or electrical components at auctions. How frequently did this occur? How did your company determine what transformers it would sell at auction?

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**ANSWER:**

PCS specifically objects to this Question on the grounds that it is overly broad and requests information not relevant to EPA's determination of the need for response at the Site. PCS further objects to this Question on the grounds that it is vague and ambiguous in that the term "auction" is not defined. Subject to and without waiving these specific objections and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date has not revealed company records showing sales of transformers or other electrical equipment at auctions.

15. If your company did not sell, transfer, deliver (e.g., for repair, consignment, or joint-venture), or dispose of electrical transformers, ballasts, capacitors, switch gears, or electrical components directly to the Site, who was the "middle man" and what efforts, if any, did your company take to ensure that releases of PCBs from the electrical transformers, ballasts, capacitors, switch gears, or electrical components sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site would not occur at the Site?

**ANSWER:**

PCS specifically objects to this Question on the grounds that it is vague and ambiguous in that the term "middle man" is not defined. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that, as shown in its purchase orders, PCS engaged directly in transactions with Ward and not through a third party.

16. What basis, if any, did your company have for believing that the facility at the Site was or was not in compliance with substantive provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued applicable to the handling, processing, reclamation, or other management activities associated with the electrical equipment or PCBs contained therein? Please provide any records to support such belief.

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date has not revealed any company records indicating that PCS had knowledge that Ward was not in compliance with any environmental laws.

17. What efforts, if any, did your company take to investigate the nature of the operations conducted at the Site or the environmental compliance of the Site prior to selling,



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transferring, delivering (e.g., for repair, consignment, or joint-venture), disposing of, or arranging for the treatment or disposal of any electrical transformers, ballasts, capacitors, switch gears, or electrical components to the Site? Please provide any records to support such investigation.

**ANSWER:**

PCS specifically objects to this Question to the extent it presupposes the legal conclusion that all transactions with Ward were for the arrangement, treatment, or disposal of PCBs. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date has not revealed any company records showing an investigation into Ward's operations prior to engaging in transactions with Ward.

18. What efforts, if any, did your company take to ensure that releases of PCBs from electrical transformers, ballasts, capacitors, switch gears, or electrical components that it sold, transferred, delivered (e.g., for repair, consignment, or joint-venture), or disposed of at the Site would not occur at the Site?

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that it engaged in a program, primarily during 1987 and 1988, to convert its transformers to non-PCB transformers. As part of its PCB program, PCS engaged Sunohio (also known as Sun Environmental and subsequently ENSR) to reclassify its transformers. In addition, PCS had a policy in place addressing the storage and disposal of PCB or PCB-contaminated oil and electrical equipment, ensuring that PCB or PCB-contaminated waste was properly manifested and disposed of at certified facilities. On more than one occasion, PCS engaged certified transportation and disposal companies to remove PCB or PCB-contaminated oil or transformers from the Site for proper disposal, or Ward returned such materials to PCS for proper disposal.

19. Provide a list of persons employed by Respondent that had something to do with the sale, transfer, delivery (e.g., for repair, consignment, or joint-venture), or disposal of electrical transformers, ballasts, capacitors, switch gears, or electrical components during the years that your company had a relationship with the Site, including current addresses and phone numbers, if known. Indicate those employees that are currently employed by Respondent.

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**ANSWER:**

PCS specifically objects to this Question on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, PCS incorporates by reference its Narrative Response, Answer to Question No. 2, and Answer to Question No. 6, Subpart g as if set forth in full. Current and former PCS employees must be contacted through counsel for PCS.

20. Identify all persons or entities who may be responsible for the liabilities of Respondent arising from or relating to the release or threatened release of hazardous substances at the Site, including but not limited to successors and individuals.

**ANSWER:**

PCS specifically objects to this Question on the grounds that it presupposes the legal conclusion that PCS's transactions with Ward result in liability. Subject to and without waiving this specific objection and the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that to date, voluntarily and without admitting liability, PCS has contributed almost \$16 million toward the removal action work, which is well in excess of PCS's proportionate share of liability, if any, for cleanup at the Site.

21. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, and incorporating by reference its Narrative Response, PCS further states that its investigation to date has not revealed anyone who can provide a more detailed response with regard to PCS's Answers to the Questions in the Information Request. However, the following entities may have information and/or documents regarding the Site: Ward; entities that received a Special Notice Letter from EPA regarding OUI/OU2 at the Site; current parties to the lawsuit *Carolina Power & Light Co. d/b/a Progress Energy Carolinas, Inc. v. 3M Co.*, No. 5:08-CV-460-FL (E.D.N.C.); current parties to the lawsuit *Consolidation Coal Co. v. 3M Co.*, No. 5:08-CV-00463-FL (E.D.N.C.); and any entities that have settled their liability with regard to the aforementioned lawsuits.

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22. For each and every Question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, please identify the persons from who such information or documents may be obtained.

**ANSWER:**

Subject to and without waiving the objections contained in the Preliminary Statement, PCS incorporates by reference its Narrative Response and Answer to Question No. 21 as if set forth in full.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Mary Beth Deemer", with a stylized, cursive flourish.

Mary Beth Deemer